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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated,

PLAINTIFFS,

v.

CITY OF PORTLAND, a municipal corporation, and MULTNOMAH COUNTY, a political subdivision of the State,

DEFENDANTS.

I, Jason Wands, declare as follows:

1. I am a City of Portland police officer. I was hired by the Portland Police

3:20-cv-00917-HZ

DECLARATION OF JASON WANDS

**(In Support of Defendant City of Portland's
Response to Motion for Temporary
Restraining Order and Preliminary
Injunction)**

Bureau (“PPB”) in 2012. My primary assignment is as a patrol officer in Central Precinct.

2. Since approximately 2015 I have worked on a detached, specialty assignment with PPB’s Rapid Response Team (“RRT”). RRT has an application and selection process. RRT is PPB’s primary specialty group that performs crowd management and crowd control services. Since approximately 2017 my role on RRT has been as a grenadier. As a member of RRT I have received annual In-Service training, which varies from year to year, ranging from approximately 20 to 50 hours.

3. As a RRT grenadier, I have been trained in the use of less lethal weapons such as a 40 mm launcher and the FN303. The 40mm launcher is a shotgun-like platform that allows a variety of Riot Control Agents (“RCAs”) to be fired from it. These RCAs can include impact munitions, such as foam tipped impact rounds, marking rounds that contain paint, or Oleoresin Capsicum (“OC”) rounds that contain OC powder that disperse on impact. In addition, the 40mm launcher can be used to launch other RCAs such as smoke (obscurant), 2-chlorobenzalmalononitrile “CS” gas and Oleoresin Capsicum Pyrotechnic (“OC pyrotechnic”). The FN303 is a rifle-like platform that allows small, plastic balls to be fired from it. These balls can contain an active ingredient of 0.5% OC in a powder form and washable paint for marking suspects .

4. In addition to launchable RCAs, grenadiers also carry hand-tossed munitions including canisters of CS gas, OC pyrotechnic, or OC vapor. Grenadiers may also carry rubber ball distraction devices (“RBDDs”). RBDD payloads can vary, and some do not have any payloads at all, and are called inert RBDDs. An inert RBDD delivers only a blast of light and sound. A “live” RBDD delivers a blast of light and sound, but also contains small rubber balls (approximately .81 cm each) that are dispersed outward in an explosion. An “OC” RBDD delivers a blast of light and sound, but also projects a cloud of OC in outward in an explosion. The rubber ball dispersion during the explosion of a “live” RBDD or an “OC” RBDD radiates horizontally approximately 50 feet.

5. On Saturday, May 30, 2020 and Sunday, May 31, 2020 I was assigned as a grenadier to RRT's Charlie Squad. My shift began at 1700 hours on May 30 and ended approximately 0400 hours on May 31. During this May 30-31 shift, on or after 1800 hours, I was working downtown in the area of SW 3rd Avenue and SW Main Street. RRT's sound truck had given dispersal announcements and force warnings, but a large crowd of people had refused to disperse. A person started to move a barricade into the middle of the street. The placement of the barricade would have prevented a safe and uniform advance of RRT officers. In addition, the crowd could use the barricade as a shield to push against the RRT officers. I deployed FN303 rounds from an approximate distance of 30 feet to the lower extremities of the person placing the barricade. The rounds did not seem to effect the person, as the person was wearing protective, improvised body-armor. The person continued placing the barricade and then jogged off. On another occasion, at about the same time and location, a person was throwing full water bottles at the police from an apparent cache of bottles. As the bottles were coming dangerously close to the line of RRT officers, I deployed several rounds from my FN303. Despite my best efforts to target and hit this person throwing bottles at the police, the person continued throwing bottles until disappearing into the crowd.

6. This May 30-31 shift was dangerous, dynamic and rapidly evolving.

7. During my May 30-31 shift, I deployed my FN303 at various individuals at different locations and who were part of different crowds of people who had refused to disperse, despite RRT's repeated dispersal announcements and force warnings. With each deployment I was targeting individuals who were either throwing projectiles at the police, immediately about to throw objects at the police, or used the FN303 deployment to create areas of denial so people could not pick objects to throw at the police, or gather materials to use as fuel for fires or as barricades. In every case when I was targeting a person, when the person dropped the object and ran away, or had thrown the object and then ran away, I ceased my engagement with that person and ceased firing my FN303 when the threat of that person's assaultive behavior

to the police no longer existed.

8. During my May 30-31 shift, on or after 1800 hours, in the area of SW 2nd Avenue and SW Salmon Street, RRT officers were moving a crowd of protestors towards Waterfront Park. Persons in the crowd were throwing projectiles at the police. These projectiles included rocks, bottles and mortars. From a distance of approximately 100 feet, I deployed two OC Skat munitions and one smoke Skat munition to the rear of the crowd to prevent the crowd from pushing back towards the officers, and to create and maintain a safe distance between the officers and persons in the crowd throwing projectiles at the police.

9. On Tuesday, June 2, 2020 and Wednesday, June 3, 2020 I was assigned as a grenadier to RRT's Charlie Squad. My shift began at 1700 hours on June 2 and ended approximately 0400 hours on June 3. During this June 2-3 shift, on or after 1800 hours, I was standing next to Sgt. Oliphant. As I turned to look at him I saw a glass bottle hit him in the head and the bottle erupted in shards of glass. I saw a person standing next to a wall holding a glass bottle. I deployed my FN303 at this person's lower extremities as the person cocked his arm back to throw the bottle. My FN303 rounds hit this person and he turned and ran away.

10. During this same June 2-3 shift, on or after 1800 hours, I saw a person throw a lit and flaming incendiary device at a RRT van with officers of the outside of the rails of the van. The person retrieved the device to throw it at the RRT van again. I deployed FN303 rounds at this person causing the person to drop the flaming projectile and flee the area. A second person was standing a few yards away preparing to throw a glass bottle at this same RRT van. I deployed FN303 rounds at this person, causing the person to drop the bottle. When the person bent over to pick up the bottle, I deployed more FN303 rounds until this person ran away.

11. During this same June 2-3 shift, on or after 1800 hours, I saw a person pick up a CS canister that another RRT officer had deployed. As Charlie Squad's van drove by with officers standing on the van's rails, I saw a person pick up the canister and throw it at our van. I deployed my FN303 at this person. However, despite my best efforts to hit this person

with FN303 rounds, this person was able to successfully throw the canister. The canister barely missed the heads of Charlie Squad officers as our RRT van drove by.

12. During my June 2-3 shift, I deployed my FN303 at various individuals at different locations and who were part of different crowds of people who had refused to disperse, despite RRT's repeated dispersal announcements and force warnings. With each deployment I was targeting individuals who were either throwing projectiles at the police, immediately about to throw objects at the police, or used the FN303 deployment to create areas of denial so people could not pick objects to throw at the police, or gather materials to use as fuel for fires or as barricades. In every case when I was targeting a person, when the person dropped the object and ran away, or had thrown the object and then ran away, I ceased my engagement with that person and ceased firing my FN303 when the threat of that person's assaultive behavior to the police no longer existed.

13. During my June 2-3 shift, I was working in the area of SW 5th Avenue and SW Taylor Street with Charlie Squad and other RRT officers, on or after 1800 hours. Dispersal announcements and force warnings had been given, but the crowd had refused to disperse. Persons in the crowd were throwing glass bottles, rocks and mortars at the RRT officers. I deployed two SKAT smoke rounds and one OC SKAT round to prevent the crowd from continuing to throw projectiles at the police. During this same June 2-3 shift, on another occasion, I launched one smoke and one OC SKAT round to the north to disperse the crowd from where persons in the crowd were throwing projectiles at the police.

14. On Saturday, June 6, 2020 and Sunday, June 7, 2020 I was assigned as a grenadier to RRT's Charlie Squad. My shift began at 1700 hours on June 6 and ended approximately 0400 hours on June 7. During this June 6-7 shift, on or after 2330 hours, while working downtown, dispersal announcements and force warnings had been given, but persons had failed to disperse. I saw persons in the back of a U-Haul Truck, resupplying persons in the crowd with shields and projectiles. I deployed one can of OC vapor to the ground at the rear of

the vehicle to prevent persons from approaching the U-Haul truck to resupply with projectiles or shields.

15. During this same June 6-7 shift, on or after 2330 hours, RRT officers were pushing persons at the front of a crowd to get the crowd to move. I had already deployed two launched smoke munitions at the crowd to move the crowd, but those munitions did have any effect. As RRT officers were pushing the crowd, I saw a person try to punch one of the officers. To prevent this person from striking the officer, I deployed one FN303 pava round at the person's lower extremities.

16. During this same June 6-7 shift, on or after 2330 hours, I deployed FN303 pava rounds at persons who throwing projectiles or attempting to throw projectiles at the police, or who were attempting to pick or defeat hand tossed and launched RCAs. At one point, I was pushing several people with my hand when a person grabbed my FN303. I used my FN303 to jab the person to create separation and cause the person to release his grip on my FN303.

17. During my June 6-7 shift, I deployed my FN303 at various individuals at different locations and who were part of different crowds of people who had refused to disperse, despite RRT's repeated dispersal announcements and force warnings. With each deployment I was targeting individuals who were either throwing projectiles at the police, immediately about to throw objects at the police, or used the FN303 deployment to create areas of denial so people could not pick objects to throw at the police, or gather materials to use as fuel for fires or as barricades. In every case when I was targeting a person, when the person dropped the object and ran away, or had thrown the object and then ran away, I ceased my engagement with that person and ceased firing my FN303 when the threat of that person's assaultive behavior to the police no longer existed.

18. On Friday, June 12, 2020 and Saturday, June 13, 2020 I was assigned as a grenadier to RRT's Charlie Squad. My shift began at 1700 hours on June 12 and ended approximately 0400 hours on June 13. During this June 12-13 shift, on or after 2200 hours,

while working downtown, dispersal announcements and force warnings had been given, but persons had failed to disperse. I was with Charlie Squad, moving east from the area of SW 4th Avenue and SW Madison towards Chapman Square and Lownsdale Square, to disperse the crowd. I deployed one 40mm round of smoke into the center of the parks to facilitate the dispersal.

19. During this same June 12-13 shift, another RRT officer had deployed a RBDD. I person wearing black pants and a blue/black flannel shirt grabbed the munition and kicked it back towards the police line. I deployed two rounds from my FN303 at this person's lower legs. The RBDD kicked by this person detonated at chest level in front of the police line. My FN303 rounds did not prevent the person from kicking the RBDD and he ran away into the crowd unaffected by the rounds.

20. During my June 12-13 shift, I deployed my FN303 at various individuals at different locations and who were part of different crowds of people who had refused to disperse, despite RRT's repeated dispersal announcements and force warnings. With each deployment I was targeting individuals who were either throwing projectiles at the police, immediately about to throw objects at the police, or used the FN303 deployment to create areas of denial so people could not pick objects to throw at the police, or gather materials to use as fuel for fires or as barricades. In every case when I was targeting a person, when the person dropped the object and ran away, or had thrown the object and then ran away, I ceased my engagement with that person and ceased firing my FN303 when the threat of that person's assaultive behavior to the police no longer existed.

21. On Monday, June 15, 2020 and Tuesday, June 16, 2020 I was assigned as a grenadier to RRT's Charlie Squad. My shift began at 1700 hours on June 15 and ended approximately 0400 hours on June 16. During this June 15-16 shift, on or after 2315 hours, while working downtown, dispersal announcements and force warnings had been given, but persons had failed to disperse. A person named Robert Harden continued to advance on a line of

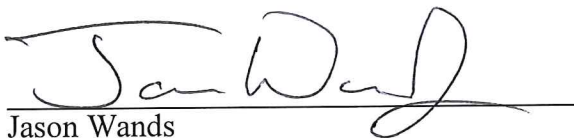
RRT officers with his umbrella and high intensity light. I deployed one pava round from my FN303 at Mr. Harden's left leg. Mr. Harden continued to advance at the police line, and then tried to jab me with the end of his umbrella, and was throwing punches at my head. I deployed two more Pava rounds into Mr. Harden's legs, but I continued to receive blows to my head from Mr. Harden. I continued to receive blows from Mr. Harden as I tried taking him into custody.

22. While deployed with Charlie Alpha Squad during the recent protests, rioting and public disorder in downtown Portland, I believe all my use of force was objectively reasonable under the totality of the circumstances.

23. I make this declaration in support of Defendant City of Portland's Response to Motion for Temporary Restraining Order and Preliminary Injunction.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: 07/06/2020


Jason Wands